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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,735	06/14/2005	Hatsuhiko Harashina	2101-20	7504
23117	7590	10/22/2007	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				SZEKELY, PETER A
ART UNIT		PAPER NUMBER		
1796				
MAIL DATE		DELIVERY MODE		
10/22/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/538,735	HARASHINA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Peter Szekely	1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 January 2006.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/14/05 6/23/07</u>   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 7-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. "(c)" cannot be zero because that case (1) is not a compound but radical. One of ordinary skill in the art would have to undertake undue experimentation in order to find out which compounds are usable in applicants' invention. See *In re Wands*, 8 USPQ2d 14000, 1404 (Fed. Cir. (1988)).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanko Kaihatsu Kagaku Kenkyusho Kabukishi Kaisha JP-202-69313, Nippon Ester Kabushiki Kaisha JP-6-166764 or Asahi Chemical Industry Co. JP-5-311026.

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5. See paragraph 0006 and 0020 and claims of Sanko, paragraphs 0002 and 0008 and Examples of Nippon and paragraphs 0007 and 0020 of Asahi. The examiner who does not speak or read Japanese accepts the conclusions of the Japanese Patent Office without any reservations. Applicants' claims are not novel.

6. Claims 1-9 and 16-26 are rejected under 35 U.S.C. 102(b or e) as being anticipated by Hoffman 4,017,455, Axelrod et al. 4,680,342 or Tamura et al. 7,109,286.

7. Hoffman discloses polyolefins, polyester and applicants' flame-retardant in claim 1, PBT in claim 7, ammonium polyphosphate in claim 11 and titanium dioxide in claim 13. For other additives see column 3, lines 60-63. Dishwasher components are shown in column 1, lines 38-39. Axelrod et al. teach flame resistant electrical products in column 5, lines 40-45, polyphenylene ether, flame retardant styrene copolymer containing applicants' compound, polyethylene and zinc sulfide in Example 3. For structure of the copolymer see claim 1. Tamura et al. recite epoxy resins reacted with applicants' flame-retardants in claims 1-26, other flame-retardants in column 14, lines 7-61, other epoxy resins in the paragraph overlapping columns 13 and 14, fillers in column 14, lines 62-67, polyethylene in column 15, line 20, phenolic resins, novolak resins and polyoxystyrenes in column 13, lines 18-23. Applicants' claims are not novel.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over CN-1229816 or JP-2002-69313.

11. The examiner who does not speak or read Chinese accepts the conclusions of the Chinese Patent Office without any reservations.

12. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanko Kaihatsu Kagaku Kenkyusho Kabukishi Kaisha JP-202-69313, Nippon Ester Kabushiki Kaisha JP-6-166764 or Asahi Chemical Industry Co. JP-5-311026.

13. All references have been described previously. The examiner who does not speak or read Japanese accepts the conclusions of the Japanese Patent Office without any reservations.

14. Claims 1-9 and 16-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman 4,017,455, Axelrod et al. 4,680,342 or Tamura et al. 7,109,286.

15. All references have been described already. It would have been obvious to one having ordinary skill in the art; at the time the invention was made, to select applicants' ingredients from a list of equivalents.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 6:10 a.m.-4:40 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (571) 272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Peter Szekely  
Primary Examiner  
Art Unit 1796

P.S.  
10/18/07

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